

Title: Merchant Shipping (Maritime Labour Convention)(Seafarers' Wages) Regulations 2014 ("the 2014 Regulations") IA No: DfT00174 Lead department or agency: Maritime and Coastguard Agency (MCA) Other departments or agencies: Department for Transport	Impact Assessment (IA)		
	Date: 14/01/14		
	Stage: Final		
	Source of intervention: International		
	Type of measure: Secondary legislation		
Contact for enquiries: Michael Lines Tel: 023 8032 9246			
Summary: Intervention and Options			RPC: GREEN

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out? Measure qualifies as
NQ	NQ	NQ	No NA

What is the problem under consideration? Why is government intervention necessary?

It is considered that all seafarers should be paid regularly for their services. However, employment conditions for seafarers vary across the world, with some seafarers working under unacceptable conditions whilst ship operators operating substandard ships gain a competitive advantage. Effective international standards are therefore needed to address these issues. The ILO Maritime Labour Convention 2006 (MLC) aims to provide seafarers with minimum living and working conditions that are globally applicable and uniformly enforced, including on payment of wages. This requires a package of new UK legislation in the UK. The UK ratified the MLC on 7 August 2013, so UK legislation must be fully compliant.

What are the policy objectives and the intended effects?

The purpose of the 2014 Regulations is to promote decent living and working conditions for seafarers globally and an international level playing field for shipping, as part of the UK's implementation of the MLC, by a) bringing UK legislation into line with the minimum global standards for seafarers' wages; b) fully complying with MLC standards under UK international obligations as a ratifying country, and c) enforcing these global minimum standards for payment of seafarers' wages on non-UK registered ships that call at UK ports. Specific objectives on food and catering for seafarers are found in the Evidence base.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Doing nothing is not considered to be an appropriate course of action, as new legislation is required to fully comply with the MLC. Failure to ratify the MLC would have limited its effectiveness at addressing the issues on seafarer living and working conditions discussed above and would result in UK ships not being able to obtain MLC certification. The preferred policy option is therefore to introduce the 2014 Regulations (Policy Option 1) which would make the minimum changes to existing legislation to implement the provisions of the MLC on payment of seafarers' wages, and streamline some existing domestic requirements to reflect modern practice. No further measures have been deemed to be necessary and so only one Policy Option has been considered in this impact assessment.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 03/2019					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: NA		Non-traded: NA	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: Stephen Hammond Date: 24/06/2014

Summary: Analysis & Evidence

Policy Option 1

Description: Introduce the Regulations to implement the minimum mandatory requirements of the MLC in respect of seafarer's wages, and streamline some existing requirements to reflect modern practice.

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ	NA	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised costs by 'main affected groups'

Due to the limitations of the available evidence base, it has not been possible to monetise any of the costs that have been identified in this impact assessment. Consultees were invited to submit any additional evidence on these costs at public consultation. However, no quantitative evidence was received.

Other key non-monetised costs by 'main affected groups'

1) The 2014 Regulations will require shipowners to pay seafarers' wages not less than monthly and will also remove limits on the amount of wages that can be allotted by seafarers to be transmitted (i.e. to their families). This is standard practice in the UK shipping industry for employed seafarers, but shipowners may incur a small additional cost to extend this to self-employed seafarers. 2) Some seafarers could face higher costs where they are dismissed for misconduct as the limit on deductions for repatriation will be removed.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NA	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised benefits by 'main affected groups'

Due to the limitations of the available evidence base, it has not been possible to any of the benefits that have been identified in this impact assessment. Consultees were invited to submit any additional evidence on these benefits at public consultation. However, no quantitative evidence was received.

Other key non-monetised benefits by 'main affected groups'

1) Some shipowners could face lower costs when seafarers are dismissed for misconduct due to the removal of limits on deductions from wages for repatriation. 2) There could be benefits to some seafarers from better clarity and guidance on the payment of wages, and an improved enforcement mechanism where shipowners do not fulfil their obligations. 3) Ratification of the MLC requires the implementation of all the constituent Regulations (including these Regulations), and provides additional benefits (see Annex 3)

Key assumptions/sensitivities/risks

Discount rate (%)

N/A

- Engagement with industry suggests that current practice is mainly aligned with the requirements of the 2014 Regulations. For the purposes of this impact assessment, it is assumed that the information that has been received is representative of the current situation for UK registered ships more generally.
- Given the limitations of the available evidence base, it has not been possible to monetise any of the costs and benefits that have been identified.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: NQ	Benefits: NQ	Net: NQ	No	NA

Evidence Base (for summary sheets)

Key Definitions

ILO = International Labour Organization

MCA = Maritime and Coastguard Agency

MLC = ILO Maritime Labour Convention 2006

SEA = Seafarer Employment Agreement

1. TITLE OF PROPOSAL

The Merchant Shipping (Maritime Labour Convention) (Seafarers' Wages) Regulations 2014 ("the 2014 Regulations")

1a. CONSULTATION ON THE PROPOSALS

Like all Conventions of the International Labour Organisation, the Maritime Labour Convention, 2006 was drawn up on a tripartite basis in negotiations between shipowner organisations, seafarer organisations and governments, and the UK took a leading role in all three delegations. The MCA has continued to work closely with its social partners on the implementation of the Convention, through a tripartite working group – see Annex 4.

The impact assessment for these proposals, issued as part of the public consultation package, invited consultees to submit additional evidence on the costs and benefits of the proposed regulations. 176 organisations and companies were directly notified of the consultation exercise, including the UK Chamber of Shipping which represents a broad cross section of UK shipping companies in all sectors, and other trade associations such as the British Marine Federation and International Marine Contractors Association. In addition, a meeting was held during the consultation period for the operators of small commercial vessels such as workboats, and charter yachts, to consider the impact on smaller businesses. Five written responses were received, from significant players in the industry. Some consultees confirmed MCA's view that in general the proposals reflect current good practice. The responses on specific aspects of the proposals are included in the costs section below, but in summary, there was no opposition in principle to implementation of the MLC standards, and no evidence was provided of costs or benefits arising from the requirements which MCA had not foreseen. There were some concerns raised on details of UK implementation which can be addressed through improved guidance, rather than substantive changes to the requirements. No quantified evidence of costs or benefits was provided.

2. PROBLEM UNDER CONSIDERATION

It is considered that all seafarers should have acceptable employment conditions, including on payment of wages. However, employment conditions for seafarers vary across the world, with some seafarers working under unacceptable conditions and shipowners operating substandard ships, thus gaining a competitive advantage. In particular, ILO (2012) suggests that "seafarers often have to work under unacceptable conditions, to the detriment of their well-being, health and safety and the safety of the ships on which they work." In addition, ILO (2012) suggests that flag States and shipowners which provide seafarers with decent conditions of work "face unfair competition in that they pay the price of being undercut by shipowners which operate substandard ships."

The specific problem which the 2014 Regulations directly address is how to ensure that seafarers on ships receive regular payment for their services. Regulation 2.2 of the International Labour Organization (ILO) Maritime Labour Convention 2006 (MLC) addresses problems related to employers who use their dominant position to exploit seafarers in relation to the payment of wages.

The UK has shore based legislation governing issues such as unauthorised deductions from wages, accounts of wages, and arrangements for payments to be made to a third party, and there is similar but very dated legislation which addresses these issues for seafarers. The changes required to bring that legislation into line with the provisions of the MLC largely reflect current practice in the UK shipping industry. However, the MCA is occasionally notified of breaches of the existing legislation affecting both UK seafarers on non-UK ships and occasionally seafarers on UK ships. Examples are delay to payment of wages at the end of a contract, and failure to pay wages for a period of notice specified in the crew agreement or contract where employment has been terminated by the employer. Anecdotal evidence from seafarer welfare organisations also suggests that queries about payment of wages arise regularly. This suggests that, in the absence of government intervention, shipowners may not ensure that seafarers receive full payment of wages.

One potential explanation of this risk is that the existing international conventions requiring shipowners to ensure regular and full payment of wages have not been widely enforced worldwide. Given that there are costs of providing seafarers with decent conditions of work (in this instance payment of wages), this means that shipowners which provide substandard conditions of work can potentially undercut shipowners which provide seafarers with decent conditions of work, and can consequently potentially gain a competitive advantage.

3. RATIONALE FOR INTERVENTION

Given the international nature of the shipping industry, it is considered that effective international standards are needed to address the issues and risks that have been raised in Section 2, and to provide decent working conditions and a level playing field for ships of different flags. This is why the MLC has been developed in the ILO by government, employer and seafarer representatives as a global instrument to address these. The MLC aims to provide minimum rights for all seafarers that are globally applicable and uniformly enforced, including on payment of wages. It was adopted in the ILO by a record vote of 314 in favour and none against (two countries abstained for reasons unrelated to the substance of the MLC). The ratification criteria to bring the Convention into force internationally were met on 20 August 2012, and the MLC therefore came into force internationally on 20 August 2013. It is being widely ratified. The Government's social partners, the shipping industry and the seafarer's Trades Unions, strongly supported ratification of the MLC in the UK which took place on 7 August 2013.

Full compliance with the MLC in the UK requires a package of new legislation to be introduced to implement some of the provisions of the MLC in UK law, including the provisions of the MLC regarding payment of wages. Doing nothing is therefore not considered to be an appropriate course of action.

Failure to ratify the MLC in the UK would limit its effectiveness at addressing the issues and risks raised in section 2 of this impact assessment.

The 2014 Regulations will bring existing legislation for UK registered vessels into line with the minimum global standards for payment of wages provided for in the MLC. Regulation 2.2 and Standard A2.2 of the MLC require that provisions be in place to ensure that seafarers are paid regularly, at no more than monthly intervals, in accordance with their employment agreements. Provision is also required for a system to enable seafarers to transmit part of their earnings to their families. The 'Merchant Shipping (Seamen's' Wages & Accounts) Regulations 1972' (Statutory Instrument (SI) 1972/1698) (as amended), and the 'Merchant Shipping (Seamen's' Allotments) Regulations 1972' (SI 1972/1700) give effect to some provisions of the MLC but further amending legislation is required to bring them fully in line with the MLC.

In addition, as the UK has ratified the MLC, the 2014 Regulations allow the UK to enforce these minimum global standards on non-UK registered vessels visiting UK ports on a "no more favourable treatment" basis.

Furthermore, UK ratification of the MLC has avoided the costs of not ratifying the MLC. In particular, regardless of whether the UK ratified the MLC, UK registered vessels would still be subject to the provisions of the MLC on a "no more favourable treatment" basis when operating in foreign ports in countries that have ratified the MLC. This could result in UK registered vessels being delayed due to inspections to check their compliance with the MLC. UK ratification has enabled UK registered vessels to benefit from the system of MLC certification, avoiding or reducing the likelihood of delays related to inspections in foreign ports in countries that have ratified the MLC. As a ratifying country, these

regulations are needed to ensure that UK fulfils its international obligations as a ratifying country, by having legislation on food and catering which is fully compliant with the MLC

Further details of the requirements for and benefits of UK ratification of the MLC are provided in Annex 3 of this impact assessment.

4. POLICY OBJECTIVES

The purpose of the 2014 Regulations is to bring existing UK legislation into line with the requirements of the MLC related to payment of wages (Regulation 2.2 and Standard A2.2 of the MLC) in fulfilment of the UK's international obligations as a ratifying country, in order to:

- Secure decent working and living conditions for seafarers on UK registered ships and globally, including on regular payment of wages in accordance with an employment agreement.
- Promote a more level competitive playing field for international shipping by enforcing these standards on non-UK registered vessels that call at UK ports.
- Enable the MCA to issue MLC certification to UK registered vessels, reducing the potential for UK flagged vessels to experience delays in foreign ports in countries that have ratified the MLC.

In particular, the 2014 Regulations will:

- a) require that provisions be in place to ensure that seafarers are paid regularly, at no more than monthly intervals, in accordance with their employment agreements;
- b) require that provisions be in place to enable seafarers to transmit an unlimited part of their earnings to their families;
- c) make changes to the Merchant Shipping Act 1995 and the Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972 to remove the current limit on deductions that can be made from a seafarer's wages towards costs incurred by the shipowner as a result of a seafarer's breach of his obligations under his employment agreement. This change is however ancillary to the implementation of Regulation 2.5 and Standard A2.5 of the MLC which cover repatriation and would only apply in respect of costs incurred by a shipowner in repatriating a seafarer who has been dismissed for misconduct.

The 2014 Regulations, in conjunction with the other Regulations required to give effect to the MLC in the UK, will provide a stronger framework for the enforcement of decent standards of work as well as raising the profile of such issues with both shipowners and seafarers.

A country which has ratified the MLC is able to issue Maritime Labour Certificates to its ships, which will facilitate inspection in the ports of ratifying countries, so supporting their shipping industry. Ratifying countries are also able to enforce the same standards for payment of wages on ships of other flags calling at its ports, since the MLC provides that ships of non-ratifying countries should receive "no more favourable treatment" in the ports of ratifying countries. The 2014 Regulations will give the UK this power. This would remove the competitive advantage to shipowners operating into UK ports of flagging with a non-ratifying country.

5. DESCRIPTION OF POLICY OPTIONS

5.1. Do nothing

Existing UK legislation is not currently in compliance with the MLC in respect of payment of wages. A 'Do nothing' Option would not achieve the policy objectives that are outlined above, and is not therefore considered to be an appropriate course of action. The risks of not ratifying the MLC are summarised at the end of Annex 3 of this impact assessment.

5.2. Option 1: To implement only the minimum mandatory requirements of the MLC in respect of payment of wages, and streamline some existing requirements to reflect modern practise.

One policy option has been considered in this impact assessment. This option would introduce the 2014 Regulations in order to amend UK legislation to bring it into line with the minimum requirement of the MLC in respect to payment of wages. The minimum mandatory provisions from Regulation 2.2 and Standard A2.2 of the MLC are that:

- (a) Seafarers are paid regularly, at no more than monthly intervals, in accordance with their employment agreements, and receive an account of their wages, including any rate of currency

exchange used (which must be at the prevailing market rate). The legislation which currently deals with the payment of seafarer's wages and the provision of accounts of wages are sections 30 and 31 of the Merchant Shipping Act 1995 and the Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972 (as amended). These provide for seafarers to be paid off at the end of a voyage, except where payment at monthly intervals is specified in a crew agreement, and therefore need to be amended to require monthly payments to all seafarers.

(b) A system is provided to enable seafarers to transmit (allot) all or part of their wages to their families or dependants, and any charge for this service is to be reasonable. The legislation on Allotments from seafarer's wages is section 36 of the Merchant Shipping Act 1995 and the Merchant Shipping (Seamen's Allotments) Regulations 1972. These "Allotment" regulations only provide for a maximum of 50% of wages to be allotted (transferred), for example to families, without the prior agreement of the seafarer's employer or the ship's master. Existing UK "Wages and Accounts" and "Allotment" regulations are not currently in compliance with the MLC in respect of payment of wages in this respect and therefore require amendment to comply with the MLC.

Under Regulation 2.5 and Standard A2.5 of the MLC, shipowners may deduct from their wages the cost of repatriation of seafarers where the seafarer has been dismissed for disciplinary reasons. Currently section 70 of the Merchant Shipping Act 1995 limits to a maximum of £100 the amount that can be deducted in respect of any costs incurred by the employer as a result of a seafarer breaching their obligation under a crew agreement by being absent without leave and this is reflected in the Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972 ("the current Wages Regulations"). For any other breaches of their obligations under a crew agreement the amount that can be deducted from a seafarer's wages in respect of costs incurred by the employer is currently limited to a maximum of £300. This policy option would remove both limits in respect of repatriation costs incurred by the shipowner, where a seafarer is being repatriated for disciplinary reasons, so that the full cost can be recovered in such cases.

The proposed Merchant Shipping (Maritime Labour Convention) (Repatriation) Regulations ("the proposed Repatriation Regulations") would permit a shipowner to recover all costs incurred in repatriating a seafarer who has been dismissed on disciplinary grounds. However, as indicated in the preceding paragraph, the restrictions in the current Wages Regulations limit the amounts that can be deducted from a seafarer's wages towards any costs incurred by an employer where a seafarer is in breach of his obligations under a crew agreement. The current Wages Regulations therefore require amendment to remove the deduction limits in disciplinary repatriation cases. This is however considered an ancillary change to those changes made by the proposed Repatriation Regulations.

Other than the changes referred to above, the main provisions of existing UK legislation relating to seafarer's wages, accounts and allotments, would remain in force, applying the ILO principle that implementation of a new Convention should not be used to reduce existing standards.. However, as a result of representations received from consultees, details of the information required on an account of wages (which date from the 1972 Wages Regulations) will be reduced – this is explained below in Section 6.4, and is not considered to reduce the level of protection available to seafarers through the regulations.

Option 1 would achieve the policy objectives outlined above.

6. COSTS AND BENEFITS OF OPTION 1

Given the limitations of the available evidence base, it has not been possible to monetise any of the costs and benefits of the Regulations (Option 1) that have been identified in this impact assessment. A full qualitative description of each of the costs and benefits that have been identified is therefore provided below. This description draws on information that has been received from the UK shipping industry. For the purposes of this impact assessment, it is assumed that the information received is representative of the current situation for UK registered ships more generally.

The impact assessment issued for public consultation invited consultees to submit additional evidence on the costs and benefits of the proposed regulations. The responses on specific aspects of the proposals are included below, but in summary no evidence was provided of costs or benefits arising from the requirements which MCA had not foreseen. In particular, no quantified evidence of costs or benefits was provided.

In addition to comments on the changes proposed, several responses highlighted concerns about the practical application of the regulations. Most of those comments will be addressed in guidance. There were also comments on costs arising from aspects of the current payment of wages regulations which it was proposed to carry forward without changes. As a result of comments received, the MCA is also revising the information required on an account of wages (which dates from the 1972 Wages Regulations) to bring it more into line with modern practice and current accounts systems - see Section 6.4 below.

6.1. Changes due to the proposed Regulations (Option 1)

The purpose of the 2014 Regulations is to require that seafarers are paid regularly, at no greater than monthly intervals and are provided at the same interval with a detailed account of the wages payable to them (see Section 6.3.1 below). The proposed Regulations would also remove the limit on the percentage of his/her wages that a seafarer can allot to another person or persons (see Section 6.3.2 below) and the limit on the amount of a seafarer's wages that can be deducted towards repatriation costs when a seafarer is dismissed from a ship on disciplinary grounds (see Section 6.3.3 below). In addition, the MCA is also revising the information required on an account of wages (see Section 6.4 below).

6.2 Comparison against the Do 'Nothing' scenario

The 'Do Nothing' scenario represents what would happen if the Government does not take any action. Under the 'Do Nothing' scenario, the MLC would have come into force in August internationally regardless of whether the UK was ready or not.

A large number of nations have already ratified and many more are expected to have done so by then. Being a Convention with worldwide application, and given that any UK ships visiting ports in ratifying countries (which are expected to be most countries within a fairly short timescale) will have to be compliant, its effects will be virtually impossible to escape for ships wishing to trade internationally.

Therefore, MCA expects that a proportion of any additional costs of complying with the minimum mandatory requirements of the MLC in respect of payment of wages, accounts and allotments would have been incurred under the 'Do Nothing' scenario. As this proportion is uncertain, we do not know the extent to which any costs of complying with the minimum mandatory requirements of the MLC in respect of wages are truly additional costs of the proposed Regulations or whether they would have occurred anyway under the Do Nothing scenario.

Given these uncertainties, this impact assessment assesses the additional costs to business of complying with the minimum mandatory requirements of the MLC in respect of payment of wages, accounts and allotments, relative to the requirements of existing UK legislation or existing industry practice as applicable. These costs are outlined on the summary sheets, and are considered to be low. However, as discussed above, we do not know the extent to which even these low costs are truly additional costs of the proposed Regulations.

6.3. Costs to business of complying with the minimum mandatory requirements of the MLC in respect of payment of wages, accounts and allotments

The following potential costs to business of complying with the minimum mandatory requirements of the MLC in respect of payment of wages, accounts and allotments have been identified in this impact assessment. As explained above, given the limitations of the available evidence base, it has not been possible to monetise any of them.

For information, the UK fleet currently consists of around 1,020 ships on the UK Ship Register (Merchant Ships), and an estimate 5,500 small commercial vessels, a large number of which are not registered. The MCA does not have accurate figures for the number of people working on the UK fleet, but it is estimated that around 89,000 seafarers are working on UK registered ships (merchant ships)¹.

6.3.1 Provisions to ensure seafarers' wages are paid on a monthly basis

Currently, existing UK legislation requires that seafarers' wages are paid, and an account of wages provided, only upon discharge of a seafarer (which could occur several months after he/she joined the vessel) unless a lesser period is specified in a crew agreement.

¹ Source: Estimated using administrative data from the MCA Seafarer documentation system and from an industry survey undertaken by the Chamber of Shipping.

The 2014 Regulations will ensure that all seafarers' wages are paid on a monthly basis. Therefore, it is possible that providing seafarers with their wages on a monthly basis and providing seafarers with a monthly account of the wages provided could potentially result in extra costs for shipowners. This could include, for example, the costs of issuing payslips on a monthly basis and any money transfer costs.

Some shipowners may also need to clarify responsibilities and payment practices among their representatives (manning agents, shipping agents) where these handle payment of wages directly.

However, it is understood from discussions with shipowners' representatives that the majority of employers already pay seafarers' wages on a monthly basis. For such employers therefore, whilst this change would bring legislation on seafarers' wages into line with legislation for land-based workers in the UK, there would be no impact in terms of either costs for shipowners or benefits for seafarers. There might be some shipowners who still pay wages at the end of a voyage or period of engagement, however in such circumstances it is likely that seafarers are able to obtain advances of salaries at more frequent intervals and can also request allotment of a proportion of his wages to another person at regular intervals. Therefore, for the purposes of this impact assessment, it is assumed that this change would not result in significant additional costs for the UK shipping industry.

UK regulations on payment of seafarer wages currently apply to seafarers working under a crew agreement. The proposed Regulations, implementing the provisions of standard A2.2 of the MLC, would apply to all seafarers, including those who are self-employed. A seafarer working under a contract for services may currently be paid at the end of the contract. The 2014 Regulations, taken together with the regulations on seafarer employment agreements, will require that they receive remuneration monthly. MCA identified that this may in some cases incur additional costs for the shipowner, but considered that the number of cases is likely to be relatively small.

MCA does not have data on the employment status of seafarers working on UK ships. However, within the UK working population as a whole, the percentage of self-employed persons is estimated at 14.7%². MCA considers this to be a high estimate for the proportion of self-employed persons working on merchant ships, where the majority of seafarers are employed under time-limited contracts. However, as an illustrative estimate of the maximum number of persons affected, within the estimated 89,000 seafarers working on UK merchant ships, 14.7% would equate to about 13,000 seafarers, and it is likely that some of those self-employed seafarers would be working under contracts of service which already require payment in instalments which may be monthly. In addition, a significant proportion of self-employed persons in the maritime sector would be working as owner operators of small commercial vessels (note – these seafarers are not included in the estimated 89,000 seafarers working on merchant ships referred to above), and would not earn remuneration from an employer or client, so that these regulations will not be applicable.

Consultees were invited to submit any additional evidence on the additional costs which may arise from the change to monthly payment of wages or remuneration for self-employed seafarers. One response agreed that the number of seafarers affected was likely to be small, but pointed out that the impact is likely to be felt disproportionately in the offshore sector, where there is a higher proportion of self-employed ("freelance") personnel than in other sectors of the shipping industry. The consultation response suggested that currently many of these individuals in the offshore sector will be paid at the end of a contract rather than monthly during their period of engagement, and that there will be costs involved in amending contracts and changing financial systems to allow for payment during a contract. However, no evidence was provided of the cost of making this change.

Due to uncertainty over the current frequency of payments to seafarers and the lack of available evidence on the potential costs to shipowners of moving to monthly payments, where not already existing practice, it has not been possible to monetise this cost in this impact assessment. If a shipowner currently pays seafarers at the end of a voyage, or at the end of a contract, there could be some costs involved in making monthly payments in terms of conducting payroll runs/payments more frequently, but these are not expected to be substantial.

Some consultation responses also pointed out that where a newly appointed seafarer starts work towards the end of a pay period, it may not be possible to include them in the first pay run after their appointment. Their first payment of wages may therefore be more than one month after they start work. Changing payment systems to address this issue would be very costly. MCA considers that the same issue could arise for a worker employed in shore based industry, and this would not constitute a breach of the 2014 Regulations which required enforcement action, provided the seafarer was given clear notice

² Office of National Statistics Labour Market Statistic Feb 2013 <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-254386>

at the start of their employment date when they could expect their first payment of wages – which would be normal practice. This will be reflected in guidance.

6.3.2 Provisions to remove limits on the proportion of their wages that seafarers can allot to be transmitted, for example to their families

Existing UK legislation allows seafarers to allot up to 50% of their wages to be transmitted to a person or persons (usually their families) without the prior approval of the employer or master. The 2014 Regulations will remove the limit on the proportion of wages which can be allotted.

The MCA has been advised that many employers do not currently limit the amount to be allotted, so this change may not make a difference in practice. In the case of Filipino seafarers, for example, contracts between the employer and the Philippines Overseas Employment Administration require that 80% of a Filipino seafarer's wages be remitted to next of kin in the Philippines. It should also be noted that a seafarer may not need to allot wages if they are paid directly into a bank account, such as via a standing order for a transfer of a fixed sum each month, or by paying their wages into a joint account. In these circumstances, the MCA does not envisage that this change would result in any additional costs for either the shipowner or the seafarer.

Consultees were invited to submit any additional evidence on whether there would be any additional costs as a result of these provisions. There were some responses on the detail of the requirements, including a request for more guidance, and the MCA will amend the supporting Marine Guidance Note accordingly. However, no evidence was provided to suggest that there will be additional costs on business as a result of these provisions.

No distinction is made in the Convention between employed seafarers and self-employed seafarers as regards the right to allot wages to another person. However, MCA takes the view that this would in practice not be relevant to a self-employed person working on a ship, given the relative ease with which funds can be paid into a bank account anywhere. No separate provision has therefore been made in the proposed Regulations.

Consultees were invited to submit any evidence on the need for provision for allotments for self-employed seafarers. No evidence was provided to suggest that a system of allotments would be relevant to self-employed seafarers, and there were no comments on this point.

6.3.3 Provisions to remove limits on the amount of a seafarer's wages that can be deducted towards repatriation costs when a seafarer is dismissed from ship on disciplinary grounds.

There is a potential transfer of costs from shipowners to seafarers in those cases where seafarers are dismissed for misconduct and are asked to reimburse repatriation costs in excess of those permitted under the current Wages Regulations. While a change is required in respect of the current Wages Regulations to remove the existing limits on the amounts that can be deducted from a seafarer's wages related to breaches of their obligations under a crew agreement, thus permitting a full recovery of costs by the shipowner where repatriation is required in such circumstances, the primary change would be introduced by the proposed Merchant Shipping (Maritime Labour Convention) (Repatriation) Regulations 20xx (the "Repatriation Regulations"). The costs and benefits of this change are therefore discussed in more detail in the impact assessment of the proposed Repatriation Regulations. Nonetheless, the non-monetised costs and benefits of this change are noted on the 'Summary: Analysis and Evidence' sheet of this impact assessment for completeness.

Consultees were invited to submit any additional evidence on any additional costs which may arise as a result of the removal of the limits on amounts that can be deducted in disciplinary repatriation cases or the potential for the abuse of this provision. No evidence or comments were submitted on this point.

6.3.4 Familiarisation Costs

The MCA would publish information about the proposed changes. The MCA has consulted/discussed with social partners (industry and Unions) through tri-partite Working Group meetings, and other contacts outside that group, to gather data for this Impact Assessment, and there have been a number of events publicising the changes resulting from the MLC as a whole. Indeed, the MLC itself has been available for public scrutiny since 2006. These actions would minimise the costs for shipowners and seafarers of becoming familiar with the new requirements, the residual value of which is not considered significant.

Consultees were invited to submit any additional evidence on these familiarisation costs. No evidence was submitted. However, some consultees confirmed the MCA's view that the proposals reflect current good practice.

6.4. Benefits of the proposed Regulations (Option 1)

Some shipowners could face lower costs when seafarers are dismissed for misconduct due to the removal of limits on deductions from wages for repatriation. MCA has no evidence for the number of cases of repatriation in which shipowners currently make use of their right to deduct costs from wages, and therefore it has not been possible to monetise this benefit in this impact assessment. Nonetheless, the numbers are expected to be low, and therefore the benefits to shipowners are expected to be small. The benefits to shipowners would be offset by the costs to the seafarers concerned. As noted in Section 6.3.3, this benefit is discussed in more detail in the impact assessment of the proposed Repatriation Regulations.

Benefits to seafarers of being paid monthly are not expected to be significant, even if they are currently not paid until the end of a voyage. Seafarers are not likely to need to spend a great deal of money on a voyage as living expenses such as food are generally provided to them and benefits to their families are likely to be minimal given that they are currently able to allot portions of their wages to family members if they do not use bank accounts as mentioned in Section 6.3.2.

The draft regulations published as part of the consultation carried forward the 1972 requirements for information to be included on an account of wages. Some consultees pointed out that some of the information required could not be provided using modern computerised wages systems or was not relevant for the modern workforce on UK ships. The final version of the regulations will therefore simplify the list of requirements better to reflect modern practice. This will reduce the amount of information required, but as information from consultees suggests that industry is not currently complying with the legal requirements, this is not expected to produce any cost savings. There will however be a benefit in that employers will be able to comply with the statutory requirements.

There could potentially be some additional benefits for some seafarers from better clarity and guidance on the payment of wages, and an improved enforcement mechanism in cases where shipowners do not fulfil their obligations. However, the MCA expect that the benefits of the 2014 Regulations (Option 1) to UK seafarers would be insignificant. This is because the MCA consider that the provisions of the 2014 Regulations are already reflected in current practice on most UK ships.

Self-employed seafarers may in some cases benefit from the requirement for payments to be monthly, where currently their contract for services allows them to be paid only on completion. As previously noted, one consultee commented that although the number of self-employed seafarer is relatively low, there are disproportionately high numbers in the offshore sector, in comparison with other sectors of the shipping industry. However, there is no robust data available on the number of seafarers that would be affected (see Section 6.3.1 for a discussion of the available evidence), and no evidence is available on the extent that any seafarer affected would benefit. It has therefore not been possible to monetise the benefits of this change to the seafarers affected.

Given the limitations of the available evidence base (e.g. the number of seafarers that would benefit from the proposed Regulations and the value of any benefits per seafarer are both uncertain), it has not been possible to monetise any of the benefits of the proposed Regulations (Option 1) that have been identified in this impact assessment.

Consultees were invited to submit any additional evidence on the benefits of the proposed Regulations (Option 1). No quantified evidence was provided of the benefits of the Regulations. However, one consultee stated that there would be benefits to seafarers from the requirements as regards payment of wages being brought up to date and clarified.

6.5 “One-in/Two-out” (OITO)

Option 1 introduces the minimum requirements to implement the provisions of the MLC on payment of wages. The MLC is an international instrument and thus Option 1 falls outside the scope of “One-In, Two-Out”.

However, the revised and reduced requirements for the minimum information to be recorded on a seafarer’s account of wages, since this is not prescribed by the MLC, would qualify as an (unquantified) “out”.

6.6. Benefits of UK Ratification of the MLC

Section 3 and Annex 3 of this impact assessment discuss the overall benefits of UK ratification of the MLC. It would be necessary to introduce the proposed Regulations in order for these benefits to be realised. However, a range of new legislation is required to fully implement the MLC. Therefore, it is not possible to determine the precise contribution of the proposed Regulations to realising these benefits.

Consultees were invited to provide additional evidence on these benefits. However, no evidence was submitted.

6.7. Costs of MLC Ratification for non-UK registered ships

As the UK has ratified the MLC, once these regulations are made, the MCA would have the authority to enforce the minimum rights for seafarers provided for by the MLC on non-UK registered ships that call at UK ports on a 'no more favourable treatment' basis, meaning that non-UK registered ships that call at UK ports would be required to comply with the standards of the MLC. This could potentially lead to additional costs for the owners and operators of non-UK ships registered in countries which have not ratified the MLC both in terms of the costs of complying with the MLC and the potential to face delays when calling at UK ports. However, the extent that the 2014 Regulations will contribute to such costs is uncertain. Furthermore, such costs would only represent a cost to the UK if they fall on UK entities (e.g. UK businesses or consumers). The extent to which this would be the case is uncertain. The costs for non-UK registered ships are discussed in detail in the impact assessment for the MLC Survey & Certification Regulations 2013 (DfT00193).

At public consultation, consultees were invited to provide additional evidence on these costs. However, no evidence was submitted.

6.8. Monitoring and Enforcement

The requirements contained in the 2014 Regulations will be monitored and enforced by the Maritime and Coastguard Agency (MCA) in the UK, and other maritime safety administrations when UK ships visit ports in other countries, as part of their maritime labour inspections. The Survey and Certification costs apply across all requirements of the MLC and are investigated in the Impact Assessment for the 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (DfT00193)'. Those regulations also include a complaints procedure for seafarers who feel they are not receiving their entitlements under the MLC, including the provisions on payment of wages.

7. RATIONALE AND EVIDENCE THAT JUSTIFY THE LEVEL OF ANALYSIS IN THIS IA

The MLC was developed on a tripartite basis and is strongly supported by UK shipowner and seafarer representative organisations, which also supported the prompt ratification of the MLC. Discussions on the proposals for implementing the MLC provisions for payment of wages at the MLC Tripartite Working Group have been non-controversial, with both sides of industry stating that they reflect current good practice. Consultation responses have confirmed that implementation of the MLC provisions on payment of wages are supported by industry, reflect current best practice and, with the adjustments made as a result of consultation, will affect a small number of businesses. Further analysis of the impacts is not therefore considered necessary.

8. RISKS

The 2014 Regulations need to be implemented in order that the UK legislation fully complies with the Maritime Labour Convention, 2006 which it has ratified on 7 August 2013. The risks of ratifying the MLC, and of not ratifying the MLC, are explored in Annex 3 of this impact assessment.

9. SPECIFIC IMPACT TESTS

9.1. Equalities Assessment

The 2014 Regulations would be applicable to all seafarers working on UK sea-going vessels to which the proposed Regulations would apply, irrespective of their age, ethnic origin, gender, nationality, race, sexual orientation or disability. The MLC is based on the fundamental rights and principles of workers relating to (Article III):

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

These proposals are therefore considered to have no adverse impact as regards statutory equality duties.

9.2 Competition Assessment

The 2014 Regulations would bring existing UK legislation into line with the requirements of the MLC. The MLC aims to provide a benchmark for the decent employment of seafarers globally, and it is expected that the MLC will be very widely implemented internationally.

By introducing a set of minimum standards that apply internationally, the MLC should promote a more level competitive playing field internationally and reduce the ability of ship operators to gain a competitive advantage through poor treatment of seafarers.

It is likely that this would reduce the competitiveness of ship operators that are currently less compliant with the requirements of the MLC and improve the competitiveness of ship operators that are currently more compliant with the requirement of the MLC. However, the magnitude of this impact is uncertain.

By supporting the ratification of the MLC in the UK, it is possible that the 2014 Regulations could have an impact on competition. The precise impact would depend on how the 2014 Regulations affect relative costs.

Cost increases resulting from the introduction of new Regulations that change costs of some suppliers relative to others have the potential to impact competition (for example) if they thereby limit the range of suppliers. However, industry sources have indicated an expectation that the 2014 Regulations would not cause significant additional costs for UK flagged vessels.

Internationally, it is considered that the MLC is more likely to provide a competitive benefit to UK firms. Ratification of the MLC allows the MCA to issue MLC certification, which will ensure that UK flagged vessels are not subject to unnecessary delays when visiting ports of ratifying states. This should ensure that UK flagged vessels do not suffer a competitive disadvantage as a result of the introduction of the MLC globally.

Consultees were invited to offer any additional evidence on the potential for the 2014 Regulations to impact on competition. However, no evidence was provided.

9.3. Small Firms Impact Test

It is appropriate that the working conditions for all workers should be underpinned by common minimum standards regardless of the size of the company for which they work. Any costs arising from these proposals would inevitably have the greatest impact on small firms with a small turnover. As the MLC sets minimum standards for “decent work”, it does not generally make concessions in those standards. The UK is making use of any flexibility in the MLC designed for smaller vessels or likely to apply to small companies. However, there is very little scope for flexibility in Standard A2.2 of the MLC, although the fact that these provisions on wages are not included in the European Social Partners’ agreement on the MLC in Directive 2009/13/EC allows the UK to consider domestic operations separately.

The MCA has discussed the implications of the MLC with the Domestic Passenger Ship Steering Group and representatives of the Small Commercial Vessel sector, who represent the majority of small firms operating vessels affected by the Regulations. Currently the provisions of the Merchant Shipping Act and the Merchant Shipping (Seamen’s Wages and Accounts) Regulations 1972 (as amended) which apply to all sea-going ships (except fishing vessels which have their own Regulations) and seafarers on those ships except where any ships or categories of seafarer are specifically exempted from the requirement to

have a crew agreement by regulation 4 of the Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) Regulations 1991.

A significant proportion of the ships referred to above actually operate on domestic voyages within 60 miles of a safe haven in the UK and will not therefore be covered by the UK's implementation of the MLC. Additionally the crews of small vessels operating around the UK coast will probably be recruited in the UK. It is therefore likely that employers are already complying with UK employment law in respect of payment of wages, and are likely to be largely unaffected by the changes in respect of monthly payments, accounts and allotments. However, where any vessels do operate internationally, they would be subject to the standards discussed in this impact assessment.

Self-employed seafarers (e.g. self-employed franchise operations, such as photographers, or self-employed consultants) may also be impacted. A seafarer working under a contract for services may currently be paid at the end of the contract. The 2014 Regulations, taken together with the regulations on seafarer employment agreements, would require that they receive remuneration monthly.

Consultees were invited to provide any additional evidence on the potential impacts of the proposed Regulations on small firms. A meeting was held with representatives of the small commercial vessel sector (commercial yachts, charter vessels, workboats and tugs) at which a number of concerns were raised as regards the inspection of records for payment of wages as part of MLC inspections. There is often very limited paperwork kept on board small vessels. It was agreed that if records were not available on board for inspection these could be submitted subsequently to the inspecting body by the shipowner's office by electronic means if necessary. There were also questions about the data protection aspects of such records. These issues will be addressed in supporting guidance. However, no evidence was provided of significant new costs to shipowners as a result of the 2014 Regulations.

9.4 Human Rights

The 2014 Regulations will implement provisions of the MLC which requires respect for the following fundamental rights and principles of workers (Article III):

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

There are no Human Rights compatibility issues arising from these Regulations.

9.5 Justice System

The main enforcement mechanism for the 2014 Regulations will be through the inspection and certification of UK ships under the MLC by MCA surveyors. There are however also offences and penalties laid down in the Regulations. These are in line with the penalties in place for corresponding or similar offences in existing Regulations. The MCA is reviewing these offences and penalties with the Ministry of Justice to ensure a consistent approach in all sets of regulations implementing the MLC.

9.6 Greenhouse Gas Emissions

As the 2014 Regulations only affect seafarer pay and no significant additional costs are anticipated, it is not expected to affect maritime transport volumes. Therefore, no change in greenhouse gas emissions is expected

10. REDUCING REGULATION POLICY

10.1 Direct costs and benefits to business calculations (following OITO methodology)

It is considered that the 2014 Regulations are outside the scope of OITO.

10.2 Copy out

In preparing the regulations, Government policy on "copy out" has been applied as a means of transposing international legal requirements wherever possible. However, the Convention was not always drafted in a manner which facilitates this approach, and further elaboration is required in some cases. Particular difficulties are:

- Requirements which are set by reference to existing “national laws, regulations and other measures”, and
- Provisions which require the Member to determine a particular standard in consultation with shipowner and seafarer representative organisations.

In addition, where existing UK legislation is considered to meet Convention standards, changes to adopt the language of the Convention have not always been made to avoid costs to business from dealing with unnecessary changes.

10.3 Alternatives to regulations

Introducing the requirements without recourse to legislation has been considered, particularly given that the provisions concerning wages presuppose a private contractual relationship between the seafarer and the shipowner. However, as the measures are designed to mitigate the effects of the parties having unequal bargaining positions, and the Convention explicitly requires ratifying States to take action to deliver the measures, no satisfactory alternative mechanism has been identified at this stage.

10.4 Review clauses

The proposed Regulations include a clause which requires a Ministerial review five years after they are made, and every five years thereafter, in line with the “review policy” on introducing international obligations.

The basis of this review will be the “Article 22 report” required by the International Labour Organisation (ILO). Parties to the Maritime Labour Convention, 2006 will be required to submit a report to the ILO, under Article 22 of the ILO Constitution, providing evidence of effective implementation of the Convention. Preparing for this review will enable the UK to establish the effectiveness of the policy (enforcement action taken) and identify any necessary amendments to UK legislation or to the Convention.

The review will examine UK MLC inspection reports and any enforcement action taken under the regulations, and the port state control record of UK ships in non-UK ports. In addition, complaints from seafarers on UK Ships to the UK as a flag state, and from seafarers in non-UK ships in UK ports, and the results of MCA investigations will be analysed.

A continuously reducing number of serious breaches and deficiencies in UK MLC inspections and Port State inspections, and complaints to MCA would demonstrate that the regulations were improving the standards on ships.

Successful resolution of complaints would also demonstrate that the regulations were having a positive impact.

11. SUMMARY AND PREFERRED OPTION

The 2014 Regulations will implement in legislation the minimum changes required to ensure that seafarers on UK ships have a legal entitlement to regular payment of their wages together with an account of the wages payable to them in accordance with their employment agreement, and to the means to send money home to their families without detriment.

They introduce the amendments required to the existing legislation in order to bring it into line with Regulation 2.2 and Standard A2.2 of the MLC. In addition, they modernise some existing domestic requirements as explained in Section 6.4.

In the majority of cases, consultation has confirmed that the changes reflect current practice.

12. IMPLEMENTATION PLAN

The 2014 Regulations are part of a package of Regulations that are required to allow the UK ratification of the MLC. There are two criteria for the MLC to come into force internationally: ratification by flag states representing 33% of the world’s tonnage; and ratification by 30 member states. Both criteria have

already been met, and the MLC came into force 12 months after both thresholds were passed on 20 August 2013.

A Marine Guidance Note will be published to accompany the 2014 Regulations which will explain the provisions and give guidance on their practical interpretation. Information will also be available on the DfT/MCA website.

The primary enforcement mechanism for the 2014 Regulations on UK ships will be through Flag State inspections for issue or renewal of a Maritime Labour Certificate. MCA surveyors will check the provisions for payment of wages in the shipowners' declaration of maritime labour compliance Part II and in seafarer employment agreements, and by reviewing a sample of wage accounts on board the ship as part of the inspection of UK ships. Further details about this regime are given in the consultation documents on the proposed 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations', which have been consulted on separately.

Furthermore, shipowners must have published procedures to deal with seafarers' complaints about their working and living conditions and seafarers also have the right to complain to an MCA surveyor in the UK or to any port state control officer in other countries, if they are not receiving their entitlements. This requirement is implemented in UK law by the 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 and is therefore not assessed in this impact assessment.

Annex 1

References

No.	Legislation or publication
1	Maritime Labour Convention, 2006 http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_090250/lang--en/index.htm
2	The Merchant Shipping Act 1995
3	The Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972(as amended)
4	The Merchant Shipping (Seamen's Allotments) Regulations 1972
5	ILO (2001) The impact of seafarers' living and working conditions of changes in the structure of the shipping industry. Report JMC/29/2001/3 http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_PUBL_9221122379_EN/lang--en/index.htm
6	European Commission (2006) Communication from the Commission under Article 138(2) of the EC Treaty on the strengthening of maritime labour standards. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0287:FIN:EN:PDF
7	ILO (2012) Maritime Labour Convention, 2006: Frequently asked questions. http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_177371/lang--en/index.htm
8	ILO (2011) Advantages of the Maritime Labour Convention, 2006. http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_153450/lang--en/index.htm

Annex 2: Background on the Maritime Labour Convention (2006)

At its 94th (Maritime) Session in February 2006 the International Labour Conference adopted the Maritime Labour Convention 2006. The Convention will come into force internationally on 20 August 2013.

The ILO's Maritime Labour Convention 2006 (MLC) provides comprehensive rights and protection at work for the world's more than 1.2 million seafarers. The Convention is a major tool in the furtherance of the Better Regulation objective of consolidation of existing legal instruments, as it consolidates and updates more than 65 international labour standards related to seafarers adopted over the last 80 years. The Convention sets out seafarers' rights to decent conditions of work on a wide range of subjects, and aims to be globally applicable, easily understandable, readily updatable and uniformly enforced. It has been designed to become a global instrument known as the "fourth pillar" of the international regulatory regime for quality shipping, complementing the key Conventions of the International Maritime Organization (IMO) (Safety of Life at Sea (SOLAS), prevention of marine pollution (MARPOL), and training and certification (STCW)).

The Convention's provisions are arranged in 5 Titles, as follows:

Title 1: Minimum requirements for seafarers to work on a ship (minimum age; medical certification; training; recruitment and placement).

Title 2: Conditions of employment (employment agreements; wages; hours of work; annual leave; repatriation; compensation for ship's loss; manning; career development).

Title 3: Accommodation, recreational facilities, food and catering.

Title 4: Health protection, medical care, welfare and social provision (medical care on board and ashore; shipowners' liability; health and safety; welfare facilities; social security).

Title 5: Compliance and enforcement

There were two criteria to be met before the MLC could come into force internationally. The first was that the Convention should be ratified by countries representing at least 33% of the world's tonnage. The second was that at least 30 countries should ratify the Convention. On 20 August, the Philippines became the 30th country to ratify the MLC, which between them represent nearly 60% of the world's fleet. Both criteria have therefore now been met.

In the UK, decisions on whether or not legislative changes are desirable and should be introduced in order to comply with a particular Convention will depend on a number of factors, including their costs and benefits, impact on other government policies, the commitment of resources and whether ratification would lead to an improvement in the level of protection for the workers concerned.

In this case, the UK played an active role in developing the Convention and fully supported the measures it contains. Command White Paper 7049 indicated the UK's commitment to ratification. Order in Council 2009/1757 declares that the MLC is ancillary to the existing Community Treaties and the MLC is considered itself to be a Community Treaty under section 1(2) of the European Communities Act 1972. The European Union has exhorted member states to ratify the Convention in full. Ratification and implementation of the Convention do not constitute any surrender of sovereignty, and do not extend European Union competence.

The UK government's social partners, the shipping industry and the seafarer's Trades Unions (see Annex 4), support prompt ratification of the Convention, so the policy of UK ratification is non-controversial. The social partners wrote jointly to Mark Prisk, then Minister for Business and Enterprise, in August 2012 pressing for rapid progress on implementation of the MLC.

Resolution 17 of the Maritime Labour Conference in February 2006 provides a two year phase in period after the Convention reaches its ratification criteria. In the first year, high priority ships (passenger ships, tankers and bulk carriers) must be issued with Maritime Labour Certificates. Within two years, all other ships must be compliant and (where appropriate) certificated. The UK will not now be among the first 30 nations to ratify and so will not benefit from this transitional period. However, the MCA has introduced early voluntary inspection of ships against MLC standards, so that both industry and unions can prepare for compliance with the Convention, and the MCA can issue documentation for UK ships in preparation for issuing certificates under the Convention when the necessary UK legislation is in place.

Annex 3: Impacts of UK Ratification of the Maritime Labour Convention (2006)

A.3.1. Context

There would be two sets of impacts from introducing the package of legislation that is necessary to implement the Maritime Labour Convention (MLC) in the UK. Firstly, there would be the costs and benefits which would be directly attributable to each of the Regulations that are necessary to implement the specific requirements of the MLC. Secondly, there would be additional costs and benefits that would arise from UK ratification of the MLC once the entire package of legislation is in place.

The costs and benefits which would be directly attributable to each of the proposed implementing Regulations for UK registered ships are considered in their respective impact assessments. Non-UK registered ships calling at UK ports may also be subjected to the requirements of MLC due to the “no-more-favourable treatment” regime. This means that a port state which has ratified the MLC will apply the same MLC standards to all ships visiting their ports, whether or not the ship’s flag state has ratified the MLC. The overall costs and benefits to the UK that would arise from the package of legislation necessary for UK ratification of the MLC are the sum of the costs and benefits of each of the implementing Regulations, plus the additional costs and benefits that would arise from UK ratification of the MLC.

This annex contains a full qualitative description of the additional benefits of UK ratification of the MLC. However, due to various uncertainties and the limitations of the available evidence base, it has not been possible to monetise any of these benefits. A full qualitative description of each of the additional benefits to the UK has been provided. These additional benefits include:

- The general promotion of decent living and working conditions for seafarers;
- Contributing to the creation of a more level global competitive playing field for the shipping industry, which would reduce the competitive advantages gained by shipowners that operate substandard ships;
- Enabling UK registered ships to benefit from the system of MLC certification when operating internationally; and
- Avoiding the potential costs to UK registered ships of not ratifying the MLC

The key factors that have prevented the monetisation of all of the additional costs and additional benefits of UK ratification of the MLC include the uncertainty and limitations of the available evidence base surrounding the extent that UK ratification of the MLC would contribute to realising these costs and benefits (e.g. several of the impacts would depend upon which other countries ratify the MLC) and the extent that the impacts on UK registered and non-UK registered ships and the seafarers working on them would represent costs and benefits to the UK.

Despite the uncertainty around the scale of potential overall costs and benefits of UK ratification of the MLC, and the limitations of the available evidence base which mean that it has not been possible to monetise any of the additional costs and benefits of UK ratification of the MLC, it should be noted that the Chamber of Shipping and Seafarer’s unions consider the costs of implementing the MLC to be manageable and expect that the overall benefits to the UK of UK ratification of the MLC and the package of legislation necessary to implement the MLC in the UK would significantly outweigh the overall costs to UK shipowners of UK ratification of the MLC and the package of legislation necessary to implement the MLC in the UK.

A.3.2. Scope of impacts

In considering the impacts of the MLC, the international nature of the shipping industry must be considered. Whilst impact assessments should assess all of the impacts of the policy options that are being considered, the focus of the impact assessment process is assessing the impacts of the policy options that are being considered on the UK, which includes the impacts on the public sector in the UK, the impacts on UK businesses and the third sector in the UK, and the impacts on UK consumers.

The proposed UK implementing Regulations would primarily apply to ships that are registered on the UK flag. However, UK ratification of the MLC would give the UK the right to inspect non-UK registered ships for compliance with the minimum global standards provided for by the MLC when they call at ports in the UK, and each set of regulations would therefore allow the UK to enforce these minimum global standards on non-UK registered ships visiting UK ports on a “no more favourable treatment” basis. It should also be noted that the costs of the MLC Survey and Certification regime would also result from UK ratification of the MLC; these costs are considered in the impact assessment pertaining to the Regulations necessary to implement the MLC Survey & inspection regime in the UK.

Data from the UK Ship Register (UKSR) has been used to assist in monetising some of the impacts of some of the proposed UK implementing Regulations on UK registered ships.

However, the nationality of the registration of a ship does not necessarily relate to the nationality of its owner or operator, the geographical locations that it operates, and the origins and destinations of the goods and passengers that are carried. Therefore, it should be noted that ships registered on the UK flag are not necessarily “UK owned”, and “UK owned” ships are not necessarily registered to the UK flag, and it should be noted that UK imports and exports and passengers are not necessarily transported on UK registered ships. Similarly, when considering the impacts on seafarers, it should be noted that both UK nationals and non-UK nationals work on UK registered ships, and that UK nationals also work on non-UK registered ships.

Therefore, it should be noted that the extent that the impacts on UK registered ships and non-UK registered ships and the seafarers working on them would represent costs and benefits to the UK is uncertain. For example, costs to the owners and operators of UK registered ships would not necessarily represent costs to the UK, and some of the costs to the owners and operators of non-UK registered ships could potentially represent costs to the UK.

Estimating the overall costs and benefits of UK ratification of the MLC is further complicated by the fact that the scale of potential costs and benefits depends upon the number of other countries who ratify the MLC. The main impacts on UK registered ships of UK ratification of the MLC and ratification of the MLC in other countries are illustrated in Table 1. This table also illustrates the impacts on non-UK registered ships. For the purposes of interpreting Table 1, as explained above, it should be noted that:

- UK registered ships may be UK owned or non-UK owned;
- Non-UK registered ships may be UK owned or non-UK owned; and
- Seafarers working on UK registered ships and non-UK registered ships may be UK nationals or non-UK nationals.

Table 1 – Main impacts of MLC ratification

Impacts of...	Impacts on...	Type of impact	Direct impact falls on...
UK Ratification of the MLC	UK registered ships	Survey & Certification Costs Compliance Costs Benefits of MLC provisions	Shipowners, MCA Shipowners Seafarers and Shipowners
	Non-UK registered ships	Costs of PSC inspections in UK ports, and potential compliance costs if non-compliant Benefits of PSC inspections	Shipowners, MCA Seafarers and Shipowners
Ratification of the MLC in other countries	UK registered ships	Benefits of MLC certification when calling at ports in these countries	Shipowners
		Cost of delays caused by PSC inspections in ports in these countries if not MLC-certified	Shipowners
		Costs of compliance if non-compliant with MLC standards	Shipowners
	Non-UK registered ships	Survey & Certification Costs Benefits of MLC provisions Compliance Costs	Shipowners Seafarers and Shipowners Shipowners

Whilst it is expected that the MLC will indeed be widely ratified internationally, it is not possible to predict precisely to what extent it will be ratified. Consequently, the scale of the costs and benefits of UK ratification is uncertain. For example, the benefits to UK registered ships of the system of MLC certification would mainly apply to UK registered ships that call at ports in MLC-ratifying states.³ Monetising this impact would require additional evidence on which to base assumptions regarding the operational patterns of UK registered ships, and the extent of MLC ratification amongst the port states that these ships call at. The associated risks are discussed in section A.3.4 of this annex.

A.3.3. Additional benefits of UK ratification of the MLC

This section outlines the key additional benefits that it is expected would arise as a result of UK ratification of the MLC.

1.) UK ratification of the MLC would promote decent living and working conditions for seafarers globally.

- Employment conditions for seafarers vary across the world, with some seafarers working under unacceptable conditions.
- ILO (2001) discusses some of the problems faced by seafarers globally, including poor standards of crew accommodation, nutritionally inadequate food, and not receiving the same quality of medical care as available to land-based workers.
- By providing minimum rights for all seafarers that are globally applicable and uniformly enforced, the MLC promotes decent working and living conditions for seafarers globally, with the European Commission (2006) suggesting that the MLC “can help to bring about more homogeneous employment conditions for the benefit of seafarers”.
- One of the ILO fundamental rights and principles on which the MLC is based is to eliminate discrimination in respect of employment and occupation (MLC Article III(d)). One of the underlying principles of the MLC is therefore to ensure that seafarers, as far as practicable, are not discriminated against but enjoy the same living and working conditions as employees ashore

³ The MLC Certification regime, together with the “no more favourable treatment” clause, will bring competitive benefits to all UK ships to the extent that they are competing globally, as explained in A3.3. section 3.

enjoy. This benefit would mainly accrue to seafarers whose current employment conditions fall short of the MLC standard, and would therefore have to be improved as a result of the MLC.

- ILO (2011) discusses the mechanisms that would ensure that the benefits of the MLC for seafarers would be realised, including that the MLC provides improved “enforcement of minimum working and living conditions” and the right “to make complaints both on board and ashore”.
- As UK registered ships already broadly comply with most of the standards required by the MLC, it is expected that seafarers working on non-UK registered ships would benefit to a greater extent. UK nationals working on non-UK ships would be among those to benefit in this way, although no data is available to quantify the magnitude of this potential benefit.
- The MLC requires wide international implementation (which it is expected to get) in order to be fully effective for all seafarers, and hence UK ratification could drive further benefits by providing additional incentives for other countries with ships calling at UK ports to ratify the MLC.

2.) UK ratification of the MLC would enable UK registered ships to benefit from the system of MLC certification.

- ILO (2011) notes that one of the benefits of the MLC is that it protects “against unfair competition from substandard ships through ‘no more favourable treatment’ for ships of non-ratifying countries”.
- Regardless of whether the UK ratifies the MLC, UK registered ships would still be subject to the provisions of the MLC on a ‘no more favourable treatment’ basis when visiting foreign ports in countries that have ratified the MLC. This means that UK registered ships operating internationally would be required to comply with the standards of the MLC when visiting ports in ratifying countries whether the UK has implemented the MLC or not.
- The ILO Guidelines on Port State Control state that possession of a valid Maritime Labour Certificate should be considered as prima facie evidence that the ship complies with the MLC. MLC certification is only available through a vessel’s flag state administration, hence non-ratification of the MLC in the UK would be expected to put UK Registered ships at a disadvantage as they would lack MLC certification which is a deficiency under the MLC even if they are otherwise in compliance with the MLC standards.
- Under the ILO Guidelines on Port State Control, failure to hold such a certificate, and the accompanying documentation, would give the Port State sufficient reason to subject the vessel to a more detailed inspection – although if conditions on board are found to be good then the inspection may not need to be extensive (this would be at the discretion of the PSC officer). Part of the documentation is a record of the national legislation applying to the vessel concerned. Where there is no documentation, the Port State Control inspectors may apply inappropriate standards from their own national interpretation of the MLC standards – particularly where the MLC standards are expressed in general terms.
- Therefore, the absence of an MLC certificate could potentially subject UK registered ships to longer delays in port than they would otherwise face as port states verify compliance with the MLC through port state control procedures. The benefits of UK ratification, in terms of the costs of non-ratification thereby avoided, would only apply when calling at ports of MLC-ratifying states.
- Furthermore, it should be noted that serious or repeated non-compliance with the MLC could also result in UK registered ships being detained in foreign ports in countries that have ratified the MLC.
- When the new EC directive on port state control is fully in force, ships would be considered as high, medium or low risk. UK ships are currently considered as low risk, minimising the frequency of inspection under PSC in Europe. If the UK does not ratify the MLC and so UK ships have no MLC documentation, this may over time affect the ranking of UK ships for PSC purposes, potentially leading to increases in the frequency of inspections.

3.) UK ratification of the MLC would promote a more level competitive playing field for shipping globally.

- At present, ship operators which operate substandard ships can gain a competitive advantage. This is because shipowners operating substandard ships can potentially gain a cost advantage and undercut shipowners which provide seafarers with decent conditions of work.
- UK ships generally have reasonably good employment conditions, and therefore operate with higher operating costs than ships registered on many other flags. UK ratification of the MLC would therefore benefit UK shipowners by ensuring that ships registered on other flags that call in UK ports would need to apply the minimum global standards of MLC and so lose some of their competitive advantage on costs.
- ILO (2011) reports that a benefit of the MLC would be a “more level playing field to help ensure fair competition and to marginalize substandard operations”.
- By enabling countries that ratify the MLC to enforce the minimum global standards provided for in the MLC on foreign registered ships that call at their ports on a “no more favourable treatment” basis, the MLC will help to create a more level competitive playing field and help to ensure fairer competition by limiting the scope for ship operators to gain a competitive advantage through operating substandard ships.
- As a consequence, the European Commission (2006) suggests that the MLC “should help to stabilise the maritime transport sector in the face of global competition and reduce the double gap between, firstly, European and third country operators and, secondly, between the different flags which favours *de facto* those maritime nations and operators with the least stringent social legislation.”
- The impacts of each set of proposed UK implementing Regulations on competition are fully discussed in the competition assessment contained in their respective impact assessments.

A.3.4. Risks of UK ratification of the MLC

The MLC will come into force in August 2013, after ratification by 30 flag states representing at least 33% of the world fleet tonnage. The benefits arising from ratification of the MLC will depend on how widely the MLC is implemented. Therefore, the main risk associated with ratifying the MLC is that the UK introduces new legislation to implement the MLC, but that subsequently the MLC only achieves a low take-up internationally. This would reduce the potential benefits and could potentially put UK-registered ships at a competitive disadvantage. However, it is likely that the MLC will be widely ratified internationally due to the high level of commitment from all sides.⁴

A.3.5. Risks to the UK of not ratifying the MLC

There are a number of risks to the UK associated with not ratifying the MLC. These include:

- The risk of EU infraction proceedings;
- The risk of negative impacts on the competitiveness of UK registered ships; and
- The risk of negative impacts on the competitiveness of the UK Ship register.

Failure to implement the Social Partners Agreement on the MLC which is annexed to Council Directive 2009/13/EC within 12 months of the coming into force date of the MLC would leave the UK open to infraction proceedings. This risk would apply to most of the UK implementing Regulations. The Social Partners Agreement covers the MLC provisions on minimum age, medical certification, seafarer employment agreement (SEAs), repatriation, hours of work, annual leave, shipowner liability and

⁴ See Question A18 in ILO (2012).

And : ILO Maritime Labour Convention, 2006 A Guide for the Shipping Industry Page 8, Coverage

seafarer compensation, food and catering, medical care, health and safety, and complaint procedures. However, it should be noted that the Social Partners Agreement does not cover all of the MLC provisions, such as on wages, social security and most of the technical standards relating to crew accommodation.

If the UK does not ratify the MLC, there would be some short term cost savings to shipowners and to government by not having to implement the revised standards in the MLC. However, regardless of whether the UK ratifies the MLC, UK registered vessels would still be subject to the provisions of the MLC on a “no more favourable treatment” basis when operating in foreign ports in countries that have ratified the MLC. Consequently, there could potentially be a risk that UK ships operating in foreign ports would be inspected for MLC compliance as part of Port State Control regime inspections in countries that have ratified the MLC, and would be unable to evidence their compliance with MLC due to the UK not being able to issue MLC Certificates of Compliance.

Since 2006, MLC has been widely recognised in the shipping community as the fourth pillar of quality shipping (alongside the IMO Conventions on Safety of Life at Sea (SOLAS), prevention of marine pollution (MARPOL), and training and certification (STCW)). It is anticipated that MLC certification would become a sign of quality for shipowners in the early years of international implementation. There could be a disincentive to shippers to charter non-MLC certified ships, thus potentially damaging the business won by ships on the UK ship register if the UK does not ratify the MLC.

There would also be an impact on the reputation of the UK’s shipping industry and the UK ship register if the UK does not ratify the MLC, as this could be seen as a rejection of modern standards agreed by the global shipping industry. Since both the UKSR and UK shipping market themselves on grounds of quality, this impact could be severe.

Over time, the UK’s inability to issue statutory MLC documentation may discourage shipowners from registering their ships with the UK, and they may be more likely to choose a flag which can provide them with a certificate of MLC compliance, particularly if their ship already broadly meets the requirements of the MLC. Existing UK shipowners may also transfer to other flags if the UK cannot issue them with the documentation they need to operate efficiently, and to demonstrate that they operate quality ships.

Delay in the UK’s ratification of the MLC continues to reduce the time available to UK shipowners and to the UK and Red Ensign Group administrations to ensure that ships are prepared for and certified in accordance with the MLC before it comes into force internationally.

As the UK is not among the first 30 flag states to ratify the MLC, the transitional period between UK ratification and the MLC coming into force, which is the time available for UK shipowners to bring their ships into compliance with the MLC, is very limited. This also limits the time available for the MCA, as the competent authority, to survey and certify UK flagged ships, putting a strain on limited resources. There is a risk that, if the period between UK ratification and the international coming into force of the MLC is short, the MCA will be unable to complete certification within the time available.

A.3.6. Conclusion

1. Due to various uncertainties and the limitations of the available evidence base, it has not been possible to monetise any of the overall costs and benefits of UK ratification of the MLC.
2. Key additional benefits of UK ratification of the MLC include promoting decent living and working conditions for seafarers globally, enabling UK registered ships to benefit from the system of MLC certification and promoting a more level competitive playing field for shipping globally.
3. Despite the various uncertainties and limitations of the available evidence base, the UK Chamber of Shipping and Seafarer’s unions expect that the benefits to the UK of ratification of the MLC would significantly outweigh the costs to the UK.
4. The key risk to the UK of ratifying the MLC before it comes into force internationally is that the UK introduces new legislation to implement the MLC but that subsequently the MLC only achieves a low take-up internationally. This would reduce the potential benefits and could potentially put UK-registered ships at a competitive disadvantage. However, this is thought to be a low risk.

5. The key risks to the UK of not ratifying the MLC include the risk of EU infraction proceedings, the risk of negative impacts on the competitiveness of UK registered ships and the risk of negative impacts on the competitiveness of the UK Ship register.

Annex 4 - Shipowner and seafarer representatives

As the MLC, 2006 is an ILO Convention, it was negotiated on a tripartite basis between Governments, and representatives of the two sides of industry (shipowner and seafarer representatives).

In implementing the Convention, governments are also required to work in a tripartite manner. In the UK, the MCA has consulted with a Tripartite Working Group (TWG) to develop policy for its regulations and guidance.

The members of the TWG are:

Government Representatives

Department for Transport (Maritime Employment, Pensions and Training Branch)

The Maritime and Coastguard Agency

A representative of the other administrations of the Red Ensign Group (UK Crown Dependencies and UK Overseas Territories)

Shipowner representatives

The UK Chamber of Shipping

The British Tugowner Association

Seafarer representatives

Nautilus International

National Union of Rail Maritime and Transport Workers

Unite

Other organisations have been invited to attend on an ad hoc basis.

P&I Clubs

P&I stands for **P**rotection and **I**ndemnity. P&I is insurance in respect of third party liabilities and expenses arising from owning ships or operating ships as principals. An insurance mutual, a Club, provides collective self insurance to its Members. The membership is comprised of a common interest group who wish to pool their risks together in order to obtain "at cost" insurance cover.

Annex 5 - Glossary of Terms

This glossary defines terms as they are used in this Impact Assessment and may not fully align with any legal definition. Where the definition is an exact legal definition, the source is quoted.

Ship includes any description of vessel used in navigation (*Merchant Shipping Act 1995 s.313*) other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply. (*Article II.1(i)*) The Convention applies to all ships which are ordinarily engaged in commercial operations (*Article II.4*)

The UK therefore proposes to apply the provisions of the Convention to:

- all UK vessels which operate either on international voyages, or from a foreign port; and
- all UK vessels operating on UK domestic voyages which operate more than 60 miles from a safe haven in the UK;

UK ship [also UK-registered ship, UK flagged ship] : a ship on the UK Ship Register or an unregistered ship which is wholly owned by British or British Dependent Territories citizens or British Overseas citizens, or by a body corporate established under the laws of any part of the UK. (*Merchant Shipping Act 1995 s.85(2)*)

Non-UK [registered, flagged] ship: a ship registered to or flying the flag of a country other than the United Kingdom.

Shipowner: means the owner of a ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner (*Maritime Labour Convention Article II .1(j)*)

UK shipowner means the shipowner of a UK registered/flagged ship.

Seafarer means any person who is employed or engaged or working in any capacity on board a ship.

UK seafarer means a seafarer of any nationality working on a UK ship.

Fishing vessel: means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing.

Fisherman means every person employment or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch, but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers.

Flag State: the authority under which a country exercises regulatory control over commercial vessels operating under its flag.

Port State: the authority under which a country exercises regulatory control over commercial vessels operating under the flags of other countries which call at ports in its territory.

The International Labour Organization (ILO): the tripartite UN agency which brings together governments, employers and workers of its members states in common action to promote decent work. (*From ILO website: www.ilo.org)*

The Maritime and Coastguard Agency (MCA): an Executive Agency of the Department for Transport, responsible for implementing throughout the UK the government's maritime safety policy. The MCA is responsible for implementing the legislation required to allow the UK to ratify the MLC, and will have the primary role in enforcing MLC standards on UK ship and on non-UK ships calling at UK ports.

Gross Tonnage: a measurement of volume (not weight) relating to a ship's enclosed spaces

Draught: the depth of water necessary to float a ship, or the depth a ship sinks in water

PSC deficiencies : Where specific aspects of the living and working conditions on board a ship do not conform to the requirements of the MLC and deadlines for their rectification have been set by an inspecting officer.

PSC (Flag State) detention : Where conditions on board a ship are clearly hazardous to the safety, health or security of seafarers or the non-conformity constitutes a serious or repeated breach of the requirements of the MLC, including seafarers' rights.

ISM : International Safety Management Code is the SOLAS system for managing the safe operations of ships and for pollution prevention.

Paris MOU : A memorandum of understanding signed by 27 participating maritime Administrations who cover the waters of the European coastal States and the North Atlantic basin from North America to Europe. It seeks to eliminate the operation of sub-standard ships through a harmonized system of port State control inspections.

“sea-going” in relation to a UK ship:

“sea-going” in relation to a United Kingdom ship means—

- (a) a ship which operates outside the waters specified as Category A, B, C and D waters in Merchant Shipping Notice 1837(M),
- (b) a ship to which the Merchant Shipping (Survey and Certification) Regulations 1995 apply and in respect of which no exemption granted under regulation 2(2) of those Regulations applies,
- (c) a ship to which regulation 4 of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998 applies and which falls within the description given in paragraph (3) of that regulation, or
- (d) a high speed craft in respect of which a permit to operate outside waters of Categories A, B, C or D has been issued in accordance with regulation 8 of the Merchant Shipping (High Speed Craft) Regulations 2004. (*Merchant Shipping (Maritime Labour Convention)(Survey and Certification) Regulations 2013*)